

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

**MATTHEW SMITH,
TDCJ No. 02060858,
Petitioner,**

v.

**BOBBY LUMPKIN,
Director, Texas Department of
Criminal Justice, Correctional
Institutions Division,
Respondent.**

§
§
§
§
§
§
§
§
§
§

EP-21-CV-205-KC

ORDER

Matthew Smith moves for a sixty-day extension to submit a reply to Bobby Lumpkin's response to the Court's order to show cause.¹ Mot., ECF No. 14. His motion is **DENIED** because he has conceded—and Lumpkin has confirmed—that his claims remain unexhausted in the state courts and his petition for a writ of habeas corpus under 28 U.S.C. § 2254 has accordingly been dismissed without prejudice. See Pet'r's Pet. 3–4, ECF No. 1; State Court Records, ECF No. 9; Resp't's Resp. 5–7, ECF No. 10.

SIGNED this 28th day of October, 2021.


KATHERINE CARDONE
UNITED STATES DISTRICT JUDGE

¹ See Order for Respondent to Answer 5–6, ECF No. 5 (“Petitioner is further advised that the Court need not await his reply before ruling on his § 2254 motion. W.D. Tex. Civ. R. 7(f)(3).”). The local rules were recently revised and the provision concerning the court not waiting for a reply before making a ruling may now be found in Rule 7(e)(2).